



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jacques Michelet) Group Art No.: 2121
Application No: 09/528524) Examiner: Hyunh, Luat T.
Filed: 3/20/2000) Re: RESPONSE
For: "Hardware Monitoring Process...") Our Ref: B-3881 617765-1
Date: June 6, 2003

Commissioner for Patents
POB 1450
Alexandria, VA 22313-1450

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Technology Center 2100

Dear Sir:

This paper is filed in response to the official action dated December 10, 2002. A request for a three-month extension of time for responding to the official action accompanies this response. In the official action the Examiner rejects all of the claims in this application as allegedly being obvious in view of several prior art references. The Examiner's grounds for rejecting the claims is respectfully traversed.

The Examiner's analysis in rejecting the claims in this application appears to be based upon an *ex post facto* analysis of Applicant's claims. For example, the Examiner tries to read various limitations from claim 1 on the Lee disclosure and other limitations of claim 1 on the HP MaxiLife disclosure and then concludes by asserting that it would be somehow obvious to combine these two references "in order to maximize reliability and system uptime."

With all due respect to the Examiner, it is submitted that the correct way of looking at an invention from an obviousness point of view is to consider the prior art available to the inventor at the time the patent application is filed and then see if the prior art leads a person of ordinary skill in the art to the claimed invention. The Examiner's analysis is exactly backwards of the correct analysis as it is based upon an *ex post facto* analysis of